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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,681	03/21/2005	Fabio Vignoli	NL 020892	4641

24737 7590 04/29/2008
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
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EXAMINER	
WASSUM, LUKE S	

ART UNIT	PAPER NUMBER
2167	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/528,681	VIGNOLI ET AL.	
	Examiner	Art Unit	
	Luke S. Wassum	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20050321*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Reopening of Prosecution

1. In view of the Appeal Brief filed on 4 February 2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167

The Invention

2. The Applicants' specification discloses a system for rendering a variety of types of media, and further that the system recognizes when a user renders multiple media of different types concurrently and as a result creates an association between the multiple media.

Priority

3. The Applicants' claim to foreign priority as a 371 application of PCT/IB/03/03660, filed 18 August 2003, which depends for priority upon European Patent Application EP-02078955.8, filed 24 September 2002, is acknowledged.

The priority documents have been received and entered into the record.

Information Disclosure Statement

4. The Applicants' Information Disclosure Statement, filed 21 March 2005, has been received and entered into the record. Since the Information Disclosure Statement complies with the provisions of MPEP § 609, the references cited therein have been considered by the examiner. See attached form PTO-1449.

Claim Objections

5. Claim 12 is objected to under 37 CFR 1.75(c) as being in improper form because the claim fails the Infringement Test. See MPEP § 608.01(n)III.

Under the terms of the Infringement Test, the test for a proper dependent claim is that the dependent claim "shall not conceivably be infringed by anything which would not also infringe the basic claim."

Dependent claim 12 fails this test, because it is conceivable that a recording media, such as a CD-ROM, containing a computer program, could infringe dependent claim 12 ("A computer program product...") without infringing base claim 1 ("A system for operating with different types of media content..."). Until the computer program is installed in a computer and executed, the claimed computer program product does not constitute the system of claim 1, and so a CD-ROM containing a computer program could infringe dependent claim 12 without infringing base claim 1.

This being the case, claim 12 fails the Infringement Test, and is thus an improper dependent claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1, 3, 8, 10 and 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

8. Regarding claims 1, 3, 8 and 10, these claims are for a system. However, all of the elements claimed [identifying means, associating means, selection means and rating means] could be reasonably interpreted in light of the disclosure by an ordinary artisan as being software alone, and thus is directed to functional descriptive material [software *per se*], which is non-statutory. For instance, the Applicants' specification at page 8, line 31 through page 9, line 5, discloses that the claimed means *may be* implemented by using a microprocessor coupled to RAM and ROM storing a program. However, drawing Figure 2 suggests a software implementation of the claims 'means'. See *In re Warmerdam* (CAFC) 31 USPQ2d 1754 at 1759.

In order for software claims to be statutory, they must be claimed in combination with an appropriate medium and/or hardware to establish a statutory category of invention and enable any functionality to be realized. Compare *In re Lowry* (CAFC) 32

USPQ2d 1031 at 1031,1035 (claim to a data structure stored on a computer readable medium that increases computer efficiency held statutory) and *In re Warmerdam* (CAFC) 31 USPQ2d 1754 at 1759 (claim to computer having a specific data structure stored in memory held a statutory product-by-process claim) with *In re Warmerdam* (CAFC) 31 USPQ2d 1754 at 1760 (claim to a data structure per se held non-statutory).

9. Regarding claim 12, this claim cites a computer program product.

The Applicants' specification fails to give a specific definition to the term "computer program product", but does disclose that a 'computer program' is understood to include a software product downloadable by a network, page 9, lines 26-28.

Any claim whose limitations are either explicitly claimed as being implemented in software, or could be reasonably interpreted as being implemented in software, must be claimed in combination with an appropriate medium to establish a statutory category of invention and enable any functionality to be realized in order for the claimed subject matter to be statutory under the provisions of 35 U.S.C. § 101.

The Applicants' above-cited lack of a definite disclosure regarding the nature of the claimed computer program product renders the claims non-statutory, since it leaves open the possibility that the Applicants intend the term "computer program product" to

be interpreted as including transmission media, signals, or other forms of energy. Such an interpretation would render the claims non-statutory under the provisions of 35 U.S.C. § 101. "A transitory, propagating signal…is not a "process, machine, manufacture, or composition of matter."…thus such a signal cannot be patentable subject matter. *In re Nuijten*, 500 F3d 1346, 84 USPQ2d 1495 (CAFC), 20 September 2007.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-3 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by **Billmaier** (U.S. Patent 6,630,963).

12. Regarding claim 1, **Billmaier** teaches a system for operating with different types of media content as claimed, the system being arranged to enable a user to use a first content of a first type (see disclosure that a user watches television content, col. 1, lines 15-36 et seq.), characterized in that the system comprises:

a) identifying means for identifying that the user concurrently uses a second content of a second type (see disclosure that a user selects a secondary audio program to replace the primary audio program associated with a television transmission, col. 9, lines 1-10 et seq.), said second content being unrelated with the first content (see disclosure that the secondary audio content is transmitted via the Internet, col. 2, lines 44-51 et seq.; the examiner notes that Applicants' specification discloses that the term 'unrelated' should be interpreted as meaning that the system has no data indicating the relation between the contents, page 3, lines 21-24; although the television and secondary audio content might both be broadcasting the same event, they are independently produced and broadcast, and there is no reference in either data stream to the other, which means that for the purposes of the claimed invention, the video and audio broadcasts are unrelated; the fact that the buffering period of the video stream must be

manually calibrated in order to match the audio stream provides further evidence that the streams are unrelated); and

b) associating means for associating said second content with the first content (see disclosure that the user selects a desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.).

13. Regarding claim 11, **Billmaier** teaches a method of operating with different types of media content, the method comprising the step of identifying a user's usage of a first content of a first type (see disclosure that a user watches television content, col. 1, lines 15-36 et seq.), characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type (see disclosure that a user selects a secondary audio program to replace the primary audio program associated with a television transmission, col. 9, lines 1-10 et seq.), said second content being unrelated with the first content (see disclosure that the secondary audio content is transmitted via the Internet, col. 2, lines 44-51 et seq.; the examiner notes that Applicants' specification discloses that the term 'unrelated' should be interpreted as meaning that the system has no data indicating the relation between the contents, page

3, lines 21-24; although the television and secondary audio content might both be broadcasting the same event, they are independently produced and broadcast, and there is no reference in either data stream to the other, which means that for the purposes of the claimed invention, the video and audio broadcasts are unrelated; the fact that the buffering period of the video stream must be manually calibrated in order to match the audio stream provides further evidence that the streams are unrelated), and a step of associating said second content with the first content (see disclosure that the user selects a desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.).

14. Regarding claim 2, **Billmaier** additionally teaches a system further comprising storage means arranged to store meta-data comprising information pertaining to said associated first and second content (see disclosure that the storage device may store, *inter alia*, electronic programming guide (EPG) data, col. 5, lines 10-15 et seq.; see also disclosure of synchronization data associated with media content, col. 7, lines 10-43).

15. Regarding claim 3, **Billmaier** additionally teaches a system further comprising selection means arranged to select the content (see disclosure that the user selects a

desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.).

16. Regarding claim 7, **Billmaier** additionally teaches a system wherein said selection means are further arranged to user-operably modify said meta-data (see disclosure that the buffering period for a given media content is user-adjustable, col. 7, lines 26-27).

17. Regarding claim 8, **Billmaier** additionally teaches a system wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content (see disclosure of the association of additional content or a variety of different types, col. 9, lines 29-50), the system further comprising rating means arranged to rate said association of the first content with the second content and/or with the third content (see disclosure of the explicit selection of secondary audio content, thus rating the association positively, col. 8, lines 26-30).

18. Regarding claim 9, **Billmaier** additionally teaches a system comprising a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content (see disclosure of a system comprising a plurality of set top boxes, television, personal computer, advanced television set, or another type of client terminal, col. 3, lines 18-25, as well as a head-end centrally-located facility where television programs are received from local cable television, satellite downlink or other sources and routing video streams and other data to and from the various set top box devices serviced thereby, col. 3, lines 48-67).

19. Regarding claim 10, **Billmaier** additionally teaches a system wherein said first and second content correspond to video and audio content (see disclosure that a secondary audio program is selected to replace the primary audio program associated with the television [video] transmission, col. 9, lines 1-5).

20. Regarding claim 12, **Billmaier** additionally teaches a computer program product enabling a programmable device, when executing said computer program product, to function as the system as defined in claim 1 (see disclosure of the use of software, col. 4, lines 52-57; see also col. 6, lines 35-47).

21. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bahn** (U.S. Patent 7,162,728).

22. Regarding claim 1, **Bahn** teaches a system for operating with different types of media content as claimed, the system being arranged to enable a user to use a first content of a first type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), characterized in that the system comprises:

a) identifying means for identifying that the user concurrently uses a second content of a second type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), said second content being unrelated with the first content (see disclosure that, for example, the user can elect to listen to jazz style music while viewing content on a shopping channel accessed over interactive television, col. 2, lines 33-35); and

b) associating means for associating said second content with the first content (see disclosure that once the user's selections have been made, the selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 40-43 et seq.).

23. Regarding claim 11, **Bahn** teaches a method of operating with different types of media content, the method comprising the step of identifying a user's usage of a first content of a first type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), said second content being unrelated with the first content (see disclosure that, for example, the user can elect to listen to jazz style music while viewing content on a shopping channel accessed over interactive television, col. 2, lines 33-35), and a step of associating said second content with the first content (see disclosure that once the user's selections have been made, the selections can be stored as user preferences in an audio library collection and

then applied during subsequent viewing of the shopping channel, col. 6, lines 40-43 et seq.).

24. Regarding claim 2, **Bahn** additionally teaches a system further comprising storage means arranged to store meta-data comprising information pertaining to said associated first and second content (see disclosure that the storage device may store, *inter alia*, a variety of audio content which can be arranged by style of music, individual song, album, artist, or by other classifications, col. 6, lines 1-7; see also disclosure that the user may upload audio and/or video content, col. 7, lines 15-51).

25. Regarding claim 3, **Bahn** additionally teaches a system further comprising selection means arranged to select the content (see disclosure that the user may choose the audio content to be rendered, col. 2, lines 31-33 et seq.).

26. Regarding claim 4, **Bahn** additionally teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content (see disclosure that after changing the default audio settings while viewing

a shopping channel, the user's selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 19-51 et seq.).

27. Regarding claim 6, **Bahn** additionally teaches a system further comprising output means arranged to simultaneously output said associated first and second content (see disclosure that the system allows the simultaneous rendering of jazz style music while the user views content on a shopping channel, col. 2, lines 33-36).

28. Regarding claim 7, **Bahn** additionally teaches a system wherein said selection means are further arranged to user-operably modify said meta-data (see disclosure that the user may upload audio and/or video content, col. 7, lines 15-51; see also disclosure that the system performs explicit profiling, col. 7, lines 52-67).

29. Regarding claim 8, **Bahn** additionally teaches a system wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content (see disclosure of the association of

additional content or a variety of different types, col. 3, lines 3-14), the system further comprising rating means arranged to rate said association of the first content with the second content and/or with the third content (see disclosure of both explicit and implicit profiling of the user, col. 7, line 52 through col. 8, line 15).

30. Regarding claim 9, **Bahn** additionally teaches a system comprising a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content (see disclosure of a variety of devices, col. 5, lines 4-31 et seq.).

31. Regarding claim 10, **Bahn** additionally teaches a system wherein said first and second content correspond to video and audio content (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.).

32. Regarding claim 12, **Bahn** additionally teaches a computer program product enabling a programmable device, when executing said computer program product, to function as the system as defined in claim 1 (see disclosure of the use of software, col. 4, line 57 through col. 5, line 3).

33. Claims 1, 3 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by **Ichino** (U.S. Patent 5,440,351).

34. Regarding claim 1, **Ichino** teaches a system for operating with different types of media content as claimed, the system being arranged to enable a user to use a first content of a first type (see disclosure that the system allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.), characterized in that the system comprises:

a) identifying means for identifying that the user concurrently uses a second content of a second type (see disclosure that the system allows a user to select the radio frequency to be rendered with television content, col. 8, lines 20-24 et seq.), said second content being unrelated with the first content (see disclosure that the system allows a user to select *any* radio frequency to be rendered with television content, col. 3, lines 31-35 et seq.); and

b) associating means for associating said second content with the first content (see disclosure that the system includes programmable memory with the capability to store a single television channel AM radio frequency association or a number of such associations, col. 8, lines 2-5 et seq.).

35. Regarding claim 11, **Ichino** teaches a method of operating with different types of media content, the method comprising the step of identifying a user's usage of a first content of a first type (see disclosure that the system allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.), characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type (see disclosure that the system allows a user to select the radio frequency to be rendered with television content, col. 8, lines 20-24 et seq.), said second content being unrelated with the first content (see disclosure that the system allows a user to select *any* radio frequency to be rendered with television content, col. 3, lines 31-35 et seq.), and a step of associating said second content with the first content (see disclosure that the system includes programmable memory with the capability to store a single television channel AM radio frequency association or a number of such associations, col. 8, lines 2-5 et seq.).

36. Regarding claim 3, **Ichino** additionally teaches a system further comprising selection means arranged to select the content (see disclosure that the user may select the frequency of the AM tuner, col. 8, lines 20-24 et seq.).

37. Regarding claim 8, **Ichino** additionally teaches a system wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content (see disclosure of the association of duplicate television channel/radio frequency associations, col. 10, lines 17-25), the system further comprising rating means arranged to rate said association of the first content with the second content and/or with the third content (see disclosure of the explicit selection of secondary audio content by radio frequency, thus rating the association positively, col. 8, lines 20-24 et seq.).

38. Regarding claim 9, **Ichino** additionally teaches a system comprising a plurality of devices, each device including output means arranged to output at least one type of the

media content, and/or input means arranged to obtain at least one type of the media content (see disclosure of both a television and a radio tuner, col. 5, lines 40-66 et seq.).

39. Regarding claim 10, **Ichino** additionally teaches a system wherein said first and second content correspond to video and audio content (see disclosure that the system allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.).

40. Regarding claim 12, **Ichino** additionally teaches a computer program product enabling a programmable device, when executing said computer program product, to function as the system as defined in claim 1 (see disclosure of the remote control device which can be programmed with AM tuner frequency/television channel associations, col. 6, lines 36-68 et seq.).

Claim Rejections - 35 USC § 103

41. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

> the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

42. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

43. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

44. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Billmaier** (U.S. Patent 6,630,963) as applied to claims 1-3 and 7-12 above, and further in view of **Bahn** (U.S. Patent 7,162,728).

45. Regarding claim 4, **Billmaier** teaches a system for operating with different types of media content substantially as claimed.

Billmaier does not explicitly teach a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content.

Bahn, however, teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content (see disclosure that after changing the default audio settings while viewing a shopping channel, the user's selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 19-51 et seq.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to register a user's preferences for which media to be played concurrently with another media, and to apply said preferences to subsequent content rendering, since this would save the user the need to repeatedly select their preferred media every time content is being rendered.

46. Regarding claim 6, **Billmaier** additionally teaches a system further comprising output means arranged to simultaneously output said associated first and second content (see disclosure that the system allows the simultaneous rendering of different content received from different sources, col. 2, lines 44-57; see also col. 6, line 63 through col. 7, line 3).

47. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Billmaier** (U.S. Patent 6,630,963) in view of **Bahn** (U.S. Patent 7,162,728) as applied to claims 4 and 6 above, and further in view of **Kotz et al.** (U.S. Patent Application Publication 20040068552).

48. Regarding claim 5, **Billmaier** and **Bahn** teach a system for operating with different types of media content substantially as claimed.

Neither **Billmaier** nor **Bahn** explicitly teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means.

Kotz et al., however, teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means (see disclosure that the system provides recommendations to a user based upon the user's preferences, past selections and user location, paragraph [0010] et seq.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the user the ability to choose from a list of recommended content, since this would give the user the ability to choose from among a variety of content that has been judged to be of potential interest to the user based on their profile and past

selections, thus providing access to content that the user might not have chosen explicitly, perhaps because they were not aware of the content, but would be of interest to the user.

49. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bahn** (U.S. Patent 7,162,728) as applied to claims 1-4 and 6-12 above, and further in view of **Kotz et al.** (U.S. Patent Application Publication 20040068552).

50. Regarding claim 5, **Bahn** teaches a system for operating with different types of media content substantially as claimed.

Bahn does not explicitly teach a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means.

Kotz et al., however, teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second

content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means (see disclosure that the system provides recommendations to a user based upon the user's preferences, past selections and user location, paragraph [0010] et seq.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the user the ability to choose from a list of recommended content, since this would give the user the ability to choose from among a variety of content that has been judged to be of potential interest to the user based on their profile and past selections, thus providing access to content that the user might not have chosen explicitly, perhaps because they were not aware of the content, but would be of interest to the user.

51. Claims 2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ichino** (U.S. Patent 5,440,351) as applied to claims 1, 3 and 8-12 above, and further in view of **Minh** (U.S. Patent 6,195,707).

52. Regarding claims 2 and 7, **Ichino** teaches a system for operating with different types of media content substantially as claimed.

Ichino does not explicitly teach a system further comprising storage means arranged to store user-modifiable meta-data comprising information pertaining to said associated first and second content.

Minh, however, teaches a system further comprising storage means arranged to store user-modifiable meta-data comprising information pertaining to said associated first and second content (see disclosure that the system maintains an alias file to associate user-defined alias's with the URL of a web page, col. 1, line 64 through col. 2, line 24 et seq.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the alias mechanism disclosed by **Minh** with the radio frequency selection apparatus disclosed by **Ichino**, since this would allow a user to assign a familiar customized label to a given radio station, alleviating the need to memorize the frequencies of all desired radio stations.

53. Regarding claim 4, **Ichino** additionally teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content (see disclosure that when the TV/Radio button is pressed, the system searches memory to see if it contains an entry for a television channel corresponding to the currently-active channel, and if so, sets the AM radio tuner to the associated radio frequency, col. 9, lines 7-20).

54. Regarding claim 5, **Ichino** additionally teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means (see disclosure that duplicate associations between radio frequencies and television channels may be stored, and the viewer would be allowed to scroll through the associations in order to select the desired frequency, col. 10, lines 17-25).

55. Regarding claim 6, **Ichino** additionally teaches a system further comprising output means arranged to simultaneously output said associated first and second

content (see disclosure that the selected AM radio broadcast is reproduced through the television sound system, col. 9, lines 14-20).

Conclusion

56. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ullman et al. (U.S. Patent 6,018,768) teaches a system for integrating video programming with the vast information resources of the Internet.

Walker et al. (U.S. Patent 6,209,028) teaches a system for providing supplemental information related to a broadcast television program.

Seidman et al. (U.S. Patent 6,298,482) teaches a system for two-way digital multimedia broadcast services, enabling a variety of interactive and other applications.

Georges (U.S. Patent 6,392,133) teaches an automatic soundtrack generator that permits the merger of a soundtrack that is independent of the external sound source, while either recording or playing a video sequence.

Parker (U.S. Patent Application Publication 2004/0060061) teaches a system for providing multiple video signals simultaneously to an end user.

Dudkiewicz et al. (U.S. Patent Application Publication 2005/0246732) teaches a navigation system for a video program viewing device that generates user interfaces enabling the user to navigate among lists of personalized content.

Platt (U.S. Patent 6,987,221) teaches a system for generating a playlist for a library or collection of media items.

Leurs et al. (U.S. Patent Application Publication 2007/0033634) teaches a method for rendering mass-market content information to a user.

Mills (U.S. Patent Application Publication 2007/0162945) teaches a system for transmitting information to a display, and includes one or more content sources.

Vignoli et al. (WIPO Patent Publication WO 2004-029835-A2) teaches the instant invention.

Lashina et al. ("The Context Aware Personal Remote Control: a Case Study on Context Awareness") teaches research on context awareness applied to a personal remote control which presents TV program reminders and suggestions in an adaptive way dependent on the situation of use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke S. Wassum whose telephone number is 571-272-4119. The examiner can normally be reached on Monday-Friday 8:30-5:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

In addition, INFORMAL or DRAFT communications may be faxed directly to the examiner at 571-273-4119, or sent via email at luke.wassum@uspto.gov, **with a previous written authorization in accordance with the provisions of MPEP § 502.03.** Such communications must be clearly marked as INFORMAL, DRAFT or UNOFFICIAL.

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26 April 2008